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5 *Attorneys for Defendants,*
5 *Joshua Bulman, Swift Transportation Company*
6 *of Arizona, LLC, and Swift Transportation Services, LLC*

7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**

9 CHARLES FINLEY, individually; IMIJAH
10 JENKINS, individually;

11 Plaintiff,
12 v.

13 JOSHUA BULMAN, individually; SWIFT
14 TRANSPORTATION COMPANY OF
15 ARIZONA, LLC, a Delaware limited liability
16 company; SWIFT TRANSPORTATION
16 SERVICES, LLC, a Delaware limited liability
16 company; DOES I-X; and ROE corporations I-
16 X, inclusive

17 Defendants.

18 JOSHUA BULMAN, individually; and SWIFT
19 TRANSPORTATION CO. OF ARIZONA,
19 LLC, a Delaware limited liability company,

20 Counterclaimants,
21 v.

22 CHARLES FINLEY, individually;

23 Counterdefendant.

CASE NO.: 2:23-cv-00930-RFB-DJA

**STIPULATION AND ORDER TO
EXTEND DISCOVERY DEADLINES
PURSUANT TO LR 26-3**

(First Request)

**STIPULATION AND ORDER TO EXTEND DISCOVERY DEADLINES
(First Request)**

25 In accordance with Local Rules of Practice for the United States District Court for the District
26 of Nevada LR 26-3, Plaintiff/Cross-Defendant CHARLES FINLEY, by and through his attorneys
27
28

1 Joshua L. Benson, Esq. of BENSON ALLRED and Mark L. Gentile, Esq. of EMERSON LAW
2 GROUP; Plaintiff IMIJAH JENKINS, by and through his counsel, Joshua L. Benson, Esq. of
3 BENSON ALLRED; Defendants, JOSHUA BULMAN, SWIFT TRANSPORTATION COMPANY
4 OF ARIZONA, LLC AND SWIFT TRANSPORTATION SERVICES, LLC, by and through their
5 attorneys Melissa J. Roose, Esq. of the law firm of RESNICK & LOUIS, P.C., hereby stipulate and
6 agree to an extension of all remaining discovery deadlines by sixty (60) days. The parties propose
7 the following revised discovery plan:

8 **I. DISCOVERY COMPLETED TO DATE**

9 On June 13, 2023, Defendants removed this case to Federal Court. On June 28, 2023,
10 Plaintiff/Cross-Defendant Charles Finley filed an Answer to Defendants Joshua Bulman and Swift
11 Transportation Company of Arizona, LLC's Counter-Claim.

12 1. On July 17, 2023, the parties attended the FRCP 26(f) Discovery Conference.
13 2. On July 14, 2023, Counter-Defendant Charles Finley served his Initial Early Case
14 Conference List of Witnesses and Production of Documents.

15 3. On July 19, 2023, Defendants served their Initial List of Witnesses and Documents
16 Pursuant to FRCP 26(a)(1).

17 4. On August 9, 2023, Plaintiffs Charles Finley and Imijah Jenkins served their Initial
18 Disclosure of Witnesses and Documents pursuant to FRCP 26(a)(1).

19 5. On August 11, 2023, the Discovery Plan and Scheduling Order was filed [Doc. 20].
20 6. On September 13, 2023, Defendants served their First Supplement to List of
21 Witnesses and Documents Pursuant to FRCP 26(a)(1).

22 7. On August 15, 2023, Defendant Swift Transportation Company of Arizona, LLC
23 served its First Set of Interrogatories, Requests for Production and Requests for Admission to
24 Plaintiff/Counter-Defendant Charles Finley.

25 8. On August 15, 2023, Defendant Swift Transportation Company of Arizona, LLC
26 served its First Set of Interrogatories, Requests for Production and Requests for Admission on
27 Plaintiff Imijah Jenkins.

1 9. On September 14, 2023, Plaintiff Charles Finley served his responses to Defendant
2 Swift Transportation Company of Arizona, LLC's First Set of Interrogatories, Requests for
3 Production and Requests for Admission.

4 10. On September 14, 2023, Plaintiff Imijah Jenkins served his responses to Defendant
5 Swift Transportation Company of Arizona, LLC's First Set of Interrogatories, Requests for
6 Production and Requests for Admission.

7 11. On September 15, 2023, Counter-Defendant Charles Finley served his Interrogatories
8 and Requests for Production on Plaintiff Imijah Jenkins.

9 12. On September 15, 2023, Counter-Defendant Charles Finley served his Interrogatories
10 and Requests for Production on Defendant/Counterclaimant Joshua Bulman.

11 13. On September 21, 2023, Defendants served a Notice of Taking Videotaped
12 Deposition of Plaintiff/Counter-Defendant Charles Finley.

13 14. On September 21, 2023, Defendants served a Notice of Taking Videotaped
14 Deposition of Plaintiff Imijah Jenkins.

15 **II. DISCOVERY TO BE COMPLETED AND REASONS FOR EXTENSION OF**
16 **DISCOVERY**

17 1. Defendants seek to obtain outstanding medical, billing, employment, tax/IRS,
18 insurance and/or other records for both Plaintiffs which may require motion practice.

19 2. The FRCP 35 Examination of Plaintiff/Cross-Defendant Charles Finley which may
20 require motion practice.

21 3. The FRCP 35 Examination of Plaintiff Imijah Jenkins which may require motion
22 practice.

23 4. The deposition of Plaintiff/Cross-Defendant Charles Finley set for October 10, 2023.

24 5. The deposition of Plaintiff Imijah Jenkins set for October 11, 2023.

25 6. Any other party and witness depositions.

26 7. Depositions of Plaintiffs' treating medical providers.

27 8. Designations of Initial Expert Witnesses.

28 9. Designations of Rebuttal Expert Witnesses.

- 1 10. Depositions of Expert Witnesses.
- 2 11. Additional discovery as the parties deem necessary.

3 **III. REASONS WHY DISCOVERY WAS NOT COMPLETED WITHIN TIME**

4 **SET BY DISCOVERY PLAN**

5 **1. Obtain Outstanding Records**

6 On August 7, 2023, Defendants sent Plaintiffs authorizations, based on information known
7 to date, for Plaintiffs to sign and return to enable Defendants to independently request Plaintiffs'
8 records. On August 8, 2023, Plaintiffs produced their initial FRCP 26 disclosures. On August 14,
9 2023, Defendants sent Plaintiffs additional authorizations for Plaintiffs to sign and return based on
10 the additional information obtained from Plaintiffs' initial FRCP 26 disclosures.

11 On August 21, 2023, Plaintiffs returned partial signed authorizations. Defendants promptly
12 commenced the records retrieval process via a third-party vendor, i.e. Magna Legal Services. Also
13 on August 21, 2023, Defendants asked Plaintiffs to return the outstanding authorizations for
14 employment, tax return, Medicaid, Social Security and insurance records.

15 On August 29, 2023, Defendants again followed up with Plaintiffs on the status of returning
16 the outstanding authorizations. Plaintiffs responded that they would not sign and return those
17 authorizations.

18 On September 19, 2023, Defendants requested Plaintiffs availability for a meet and confer
19 call on the outstanding authorizations which has been scheduled for September 25, 2023. A motion
20 to compel may follow.

21 **2. Written Discovery Responses**

22 On August 15, 2023, Defendant Swift Transportation Company, LLC served its first set of
23 Interrogatories, Requests for Production and Requests for Admissions on Plaintiff/Counter-
24 Defendant Charles Finley and Plaintiff Imijah Jenkins, respectively. On September 14, 2023,
25 Plaintiffs served their respective responses to Defendant Swift Transportation Company, LLC's first
26 set of Interrogatories, Requests for Production and Requests for Admissions.

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1 On September 19, 2023, Defendants advised Plaintiffs of alleged deficient discovery
2 responses and the need for supplemental responses. The meet and confer call has been scheduled for
3 September 25, 2023. A motion to compel may follow.

4 **3. Independent Medical Examinations of Plaintiffs**

5 On September 6, 2023, Defendants reiterated to Plaintiffs the need for Independent Medical
6 Examinations (“IME”) of both Plaintiffs which was also noted within the Discovery Plan and
7 Scheduling Order [Doc 20]. On September 8, 2023, Defendants circulated a proposed Stipulation
8 and Order for IME of Plaintiff/Cross-Defendant Charles Finley and indicated the same format would
9 be used for the Notice of IME of Plaintiff Imijah Jenkins. Defendants circulated proposed IME dates
10 of October 17, 24 and 31, 2023 and November 7, 2023, cautioning the dates were “first come, first
11 served” and would not be held.

12 On September 13, 2023, Defendants followed-up on the proposed Stipulation and Order for
13 the respective IME’s, noted a few revisions consistent with the FRCP 35 examiner’s requirements
14 and advised of the currently available proposed dates of October 17, 24 and 31, 2023. On September
15 19, 2023, Defendants again followed-up with Plaintiffs on the proposed Stipulation and Order for
16 the respective IME’s of Plaintiff/Cross-Defendant Charles Finley and Plaintiff Imijah Jenkins.
17 Additionally, Defendants requested Plaintiffs’ availability to meet and confer should a motion to
18 compel be required.

19 On September 19, 2023, Plaintiffs agreed to the IME’s but then objected to the language
20 within the proposed Stipulation and Order for IME which has necessitated a meet and confer call
21 scheduled for September 25, 2023. A motion to compel may follow.

22 **4. Depositions of Plaintiffs**

23 On September 1, 2023, Cross-Defendant Charles Finley requested available dates to depose
24 Plaintiff Imijah Jenkins. On September 8, 2023, Defendants agreed with the need to proceed with
25 Plaintiffs’ depositions and also sought/awaited receipt of Plaintiffs’ availability.

26 Given the discovery time constraints, on September 21, 2023, Defendants had to serve a
27 unilateral Notice of Videotaped Deposition of Plaintiff/Cross-Defendant Charles Finley for October
28

11, 2023. On September 21, 2023, Defendants had to serve a unilateral Notice of Videotaped
 2 Deposition of Plaintiff Imijah Jenkins for October 11, 2023.

3 **5. Expert Designations**

4 Defendants' experts continue to await receipt of the outstanding medical records and billing,
 5 among other materials, and the FRCP 35 examinations must occur before their formal designations
 6 and production of expert reports can occur.

7 **IV. CURRENT DISCOVERY DEADLINES**

Description	Deadline
Amending the pleadings or adding parties:	<i>Closed</i>
Expert disclosures:	10/12/2023
Rebuttal expert disclosures:	11/14/2023
Discovery cutoff:	12/11/2023
Dispositive motions:	01/10/2024
Pre-Trial Order:	02/09/2024

14 **V. [PROPOSED] NEW DISCOVERY DEADLINES**

Description	Deadline
Amending the pleadings or adding parties:	<i>Closed</i>
Expert disclosures:	12/11/2023
Rebuttal expert disclosures:	01/15/2024
Discovery cutoff:	02/09/2024
Dispositive motions:	03/11/2024
Pre-Trial Order:	04/09/2024

20 On September 6, 2023, Defendants notified Plaintiffs of the outstanding discovery
 21 Defendants sought to complete and inquired of the other parties as to their outstanding discovery
 22 needs in contemplation of needing to seek a continuance of the discovery deadlines. On September
 23 7, 2023, Cross-Defendant Finley agreed to stipulate to continue discovery deadlines.

24 On September 19, 2023, Defendants requested Plaintiffs availability to meet and confer
 25 before Defendants would be forced to file a motion to continue discovery deadlines. On September
 26 19, 2023, Plaintiffs agreed to stipulate to a continuance with Defendants preparing the instant
 27 stipulation as quickly as possible for this Honorable Court's consideration.

1 The Parties aver that this request for extension of discovery deadlines is made by the parties
2 in good faith and not for the purpose of delay.

3 **SUBMITTED BY THE FOLLOWING COUNSEL OF RECORD:**

4 DATED this 22nd day of September 2023.

5 **BENSON ALLRED**

6 /s/ Joshua Benson, Esq.

7 Joshua L. Benson, Esq.
8 Nevada Bar No. 10514
9 333 N. Rancho Drive, Suite 240
10 Las Vegas, NV 89106
11 *Attorneys for Plaintiffs,*
12 *Charles Finley and Imijah Jenkins*

13 DATED this 22nd day of September 2023.

14 **RESNICK & LOUIS, P.C.**

15 /s/ Melissa J. Roose, Esq.

16 Melissa J. Roose, Esq.
17 Nevada Bar No. 7889
18 8945 W. Russell Road, Suite 330
19 Las Vegas, NV 89148
20 *Attorneys for Defendants,*
21 *Joshua Bulman, Swift Transportation*
22 *Company of Arizona, LLC, and Swift*
23 *Transportation Services, LLC*

24 DATED this 22nd day of September
25 2023.

26 **EMERSON LAW GROUP**

27 /s/ Mark L. Gentile

28 Mark L. Gentile, Esq.
1 NV Bar No. 2709
2 1055 Whitney Ranch Dr., Suite 120
3 Henderson, Nevada 89014
4 *Attorneys for Counter-Defendant,*
5 *Charles Finley*

6 **IT IS SO ORDERED.**

7 
8 _____
9 U.S. MAGISTRATE JUDGE

10 DATED: 9/25/2023

From: [Melissa Roose](#)
To: [Kimberley A. Chapman](#)
Cc: [Kelley Kessler](#)
Subject: DUE TODAY: Finley, et al. v. Bulman, et al.: SAO Continue Discovery
Date: Friday, September 22, 2023 1:11:22 PM
Attachments: [2023.09.20 SAO for Continued Discovery Deadlines.docx](#)
Importance: High

From: Melissa Roose
Sent: Friday, September 22, 2023 1:09 PM
To: Joshua Benson <josh@bensonallred.com>; Kimberley A. Chapman <ckchapman@rlattorneys.com>
Cc: Mark Gentile <Mark@emersonlawgroup.com>; Robert Thompson <rthompson@rlattorneys.com>; Teresa Regalado <teresa@bensonallred.com>; Whitney Wileman <whitney@bensonallred.com>; Taylor Wakefeld <Taylor@emersonlawgroup.com>; Jenna Nixon <Jenna@emersonlawgroup.com>; April Rufus <arufus@rlattorneys.com>
Subject: RE: Finley, et al. v. Bulman, et al.: SAO Continue Discovery

Thank you. I've copied my assistant, Kim, to add all of our e-signatures and submit the SAO to Continue to the Fed Ct ASAP today.

From: Joshua Benson <josh@bensonallred.com>
Sent: Friday, September 22, 2023 12:48 PM
To: Melissa Roose <mroose@rlattorneys.com>
Cc: Mark Gentile <Mark@emersonlawgroup.com>; Robert Thompson <rthompson@rlattorneys.com>; Teresa Regalado <teresa@bensonallred.com>; Whitney Wileman <whitney@bensonallred.com>; Taylor Wakefeld <Taylor@emersonlawgroup.com>; Jenna Nixon <Jenna@emersonlawgroup.com>; April Rufus <arufus@rlattorneys.com>
Subject: Re: Finley, et al. v. Bulman, et al.: SAO Continue Discovery

—
—
You may add my e-signature.

On Sep 22, 2023, at 3:29 PM, Melissa Roose <mroose@rlattorneys.com> wrote:

E-signature is permitted. Thank you for your quick reply.

From: Mark Gentile <Mark@emersonlawgroup.com>

Sent: Friday, September 22, 2023 12:25 PM

To: Melissa Roose <mroose@rlattorneys.com>; Robert Thompson <rthompson@rlattorneys.com>; Joshua Benson <josh@bensonallred.com>; Teresa Regalado <teresa@bensonallred.com>; Whitney Wileman <whitney@bensonallred.com>

Cc: Taylor Wakefeld <Taylor@emersonlawgroup.com>; Jenna Nixon <jenna@emersonlawgroup.com>; April Rufus <arufus@rlattorneys.com>

Subject: RE: Finley, et al. v. Bulman, et al.: SAO Continue Discovery

You may add my e signature - or do I have to sign and return?

Mark L. Gentile, Esq.

Emerson Law Group
1055 Whitney Ranch Drive, Suite 120
Henderson, Nevada 89014
Tel. 702.384.9444

From: Melissa Roose [<mailto:mroose@rlattorneys.com>]

Sent: Friday, September 22, 2023 12:23 PM

To: Robert Thompson <rthompson@rlattorneys.com>; Joshua Benson <josh@bensonallred.com>; Teresa Regalado <teresa@bensonallred.com>; Whitney Wileman <whitney@bensonallred.com>
Cc: Taylor Wakefeld <Taylor@emersonlawgroup.com>; Jenna Nixon <jenna@emersonlawgroup.com>; Mark Gentile <Mark@emersonlawgroup.com>; April Rufus <arufus@rlattorneys.com>
Subject: Finley, et al. v. Bulman, et al.: SAO Continue Discovery

WARNING: NOT AN ELG SENDER: This email originated from outside of the company. Do not click on links or attachments unless you recognize the sender and know the content is safe.

Attached is the SAO to Continue Discovery to please review ASAP for prompt Court submission. We need to check the submission deadline for this because if it's late we need to add excusable neglect language.

From: Mark Gentile <Mark@emersonlawgroup.com>

Sent: Thursday, September 7, 2023 11:21 AM

To: Melissa Roose <mroose@rlattorneys.com>; Taylor Wakefeld <Taylor@emersonlawgroup.com>; Joshua Benson <josh@bensonallred.com>